MED-Project®
Medication Education & Disposal

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September 2, 2026

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CITY OF CAPITOLA
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Re: Safe Drug and Sharps Disposal Ordinance Sunset

City of Capitola:

The City of Capitola Safe Drug and Sharps Disposal Ordinance No. 1006, codified as Chapter 8.40 of the City of Capitola Municipal Code ("Ordinance") sunsets "ten years following enactment" on September 8, 2026. *See* Ordinance § 8.40.150(G). California's statewide pharmaceutical and home-generated sharps and waste program under Senate Bill 212 (2018) ("State Program") preempts the amended versions of the Ordinance. MED-Project LLC ("MED-Project") is contacting the City of Capitola ("City") to inform it that the State Program will expressly preempt its efforts to adopt an urgency ordinance and regular ordinance amending Chapter 8.40 of the Capitola Municipal Code and to reassure the City of uninterrupted access to convenient drug and sharps collection and disposal services.

California's State Program preempts any local stewardship program "with an *effective date* on or after April 18, 2018." Cal. Pub. Res. Code § 42036 2(b)(emphasis added). The City's efforts to enact an urgency ordinance, and address the sunset date, will result in an immediate effective date of September 3, 2026. Cal. Gov. Code § 36937(b). This enactment will result in express preemption, triggering the requirements of the State Program. A regular ordinance would be likewise preempted.

The Ordinance's sunset would trigger the same requirements. The State Program requires that it be expanded into the City upon the Ordinance's September 8, 2026 sunset. *See* Cal. Pub. Res. Code §§ 42036.2(a) and 42032.2(e).

The City's explanation for use of the urgency ordinance measure is the "lapse of Chapter 8.40 *could* reduce safe disposal options for medications and sharps in the community." (emphasis added). Not so. MED-Project USA, the separate entity that operates drug and sharps collection and disposal programs, is required by the State Program to transition its collection and disposal services into the City upon the State Program's preemption of the Ordinance.

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This transition will also alleviate Ordinance implementation issues. This includes, for example, a late plan approval from the City and inequitable treatment of the program operators.

Adopting an "urgency ordinance" to address the expiring local stewardship program is unsupportable, particularly given MED-Project USA's success in the State Program. The City's inevitable transition to the State Program does not require "immediate preservation of the public peace, health or safety," which is necessary for the City to use an urgency ordinance measure. Cal. Gov't Code § 36937(b); *see also 216 Sutter Bay Assocs. v. County of Sutter*, 58 Cal. App. 4th 860, 868 (1997).

As explained above, California SB 212 provides for the expansion of the State Program into the City when the Ordinance expires, so residents will continue to have access to convenient mandated drug and sharps collection services. The suggestion that implementation of the State Program—which operates almost everywhere else in California—would necessitate City action to address emergency circumstances is nonsensical. The sunset is a core feature of the temporary Ordinance. The City has known this date would come for a decade and fails to demonstrate any need for an "urgency ordinance," and attempting to pass a regular ordinance by urgency ordinance "bypass[es] more formal notice and hearing requirements." *Sutter*, 58 Cal. App. 4th at 873.

As discussed above, the State Program's express preemption will be triggered if the City passes an urgency ordinance or regular ordinance amending Chapter 8.40 of the Capitola Municipal Code instead of allowing the Ordinance to sunset on September 8, 2026. MED-Project reserves all its rights regarding the City's actions and the Ordinance.

Sincerely Yours,

Ryan Murray
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